

SFUND RECORDS CTR
2335623ENFORCEMENT CONFIDENTIAL
COMPLAINT REPORT FORM
TOXIC SUBSTANCES CONTROL DIVISION/SURVEILLANCE AND ENFORCEMENT
(Use Ball Point Pen)

REFERENCE 35

Is this an emergency? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		If yes, Call OES on 800-852-7550.	
Log #: <u>3-097-0070</u>		Date Complaint Received: <u>9-14-87</u> Time: <u>830</u> Received by: <u>K. Davis</u>	
Has Proposition 65 notification been completed?: Yes <input type="checkbox"/> No <input type="checkbox"/>			
INFORMANT:		ALLEGED RESPONSIBLE PARTY:	
Name <u>Mike Sides</u>		Name/Firm <u>Keystone Resources</u>	
Address <u>Kern Co. Health Dept</u>		Address <u>201 Industrial St</u>	
City _____ Phone <u>805, 861-3636</u>		City <u>Bakersfield</u> County Code* <u>15</u>	
Confidential or anonymous: Yes <input type="checkbox"/> No <input type="checkbox"/>		Phone() _____	
COMPLAINT DATA:			
Date of Incident: <u>Ongoing</u>		Duration/Frequency, daily, weekly etc.: <u>daily</u>	
Allegation Code*: _____		Quantity: _____ Type of containers visible: _____	
Chemicals/Substances: <u>Infectious Waste</u>			
Hazard(s): Public Exposure <input type="checkbox"/> Fire/Explosion <input type="checkbox"/> Extremely Hazardous <input type="checkbox"/> Water Contamination <input type="checkbox"/>			
Other (specify) _____			
If vehicle/transport: Company Name _____ Placarding: _____			
License No.: _____ Make: _____ Model: _____			
Source of Complaint Code*: _____ If Code A, specify: _____			
Action Taken Code*: _____ Region/Agency Referred To _____			
Other comments: <u>Kern County is requesting joint enforcement of Keystone Resources</u>			
Completion Date _____			
Note: Information to be transferred to complaint log is highlighted in bold print.			
*See Codes On Reverse Side			

Original-File

Duplicate-log

Triplicate-Investigations

STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
DEPARTMENT OF HEALTH SERVICES
TOXIC SUBSTANCES CONTROL DIVISION

In the Matter of:)	Docket HWCA 87/88-021
)	
KEYSTONE RESOURCES, INC.)	STATEMENT TO RESPONDENT
201 Industrial Street)	
Bakersfield, CA 93308)	(Corrective Action Order and
)	Complaint for Penalty)
Mailing:)	
P. O. Box 3314)	
Bakersfield, CA 93385)	
Respondent.)	
)	

TO THE ABOVE RESPONDENT:

A Corrective Action Order and Complaint for Penalty (Order and Complaint) is attached to this statement and is hereby served upon you. The Order and Complaint has been filed by the Department of Health Services (Department).

Corrective action orders and assessments of penalties are authorized by two separate sections of the Health and Safety Code, as specified in the Order and Complaint. Since the Department is using both procedures in your case, the Department has combined the corrective action order and assessment of a penalty in one document, the Order and Complaint. Corrective actions and penalty assessments each have different appeal and hearing procedures, however, so the following explanation deals with each separately.

CORRECTIVE ACTION ORDER

YOU MUST FILE A WRITTEN REQUEST FOR A HEARING WITHIN TEN DAYS IF YOU WISH TO APPEAL THE CORRECTIVE ACTION ORDER.

CORRECTIVE ACTION ORDER
ISSUED TO KEYSTONE RESOURCES INC.

TABLE OF CONTENTS (EXHIBITS)

- A. Corrective Action Order/MAP/Site
- B. Statement of Facts
- C. Infectious Waste Regulations
- D. Keystone Permit
- E. Keystone Operational Plan
- F. Letter from Keystone Resources Inc. to DOHS alleging the facility is in compliance with storage room and furnace requirements
- G. Statement and Designation by Foreign Corporation Dunn and Bradstreet and ownership investigation
- H. Photographs taken September 22, 1987
- I. Affidavits by Flora Darling
- J. General Services Agreement between KRI and Kern Oncology Medical Clinic
- K. Complaint referral from Kern County Environmental Health Division to DOHS-TSCD
- L. HWMR
- M. Affidavits by Lloyd Smith on Gary Day, Aaron Smith and Gary Urbanowicz
- N. Background information on Gary Urbanowicz to Lloyd Smith
- O. Interview of Gary Urbanowicz by Lloyd Smith
- P. Letter from Kern County Environmental Health Division regarding xylene wastes being accepted by KRI
- Q. Weight slip indicating KRI shipped 7,860 pounds of infectious wastes to SES
- R. A list of possible infectious agents handled by hospitals
- S. Statement and Designation on possible new corporation that will operate KRI

STATEMENT OF FACTS IN THE INVESTIGATION OF

KEYSTONE RESOURCES, INC.

201 INDUSTRIAL STREET

BAKERSFIELD, CALIFORNIA 93307

CORPORATE OFFICERS:

Robert D. Reese,
President

Gary Urbanowicz,
Vice-President

EXHIBITS

1. Corrective Action Order (see Section A)
2. Infectious Waste Regulations (see Section C)
3. KRI Permit (see Section D)
4. KRI Operational Plan (see Section E)

SB

5. Letter from KRI to DOHS alleging compliance with storage room and permitted consummate furnace. (See Section F)
6. Statement and Designation by Foreign Corporation (See Section G)
7. Photographs (See Section H)
8. Affidavits from Flora Darling (See Section I)
9. General Services Agreement between KRI and Kern Oncology Medical Clinic (See Section J)
10. Complaint referral from Kern County Health Department (See Section K)
11. HWMR (see Section L)
12. Affidavit by Lloyd Smith (see Section M)
13. Background on Gary Urbanowicz (see Section N)
14. Interview of Gary Urbanowicz by Lloyd Smith (see Section O)
15. Letter from Kern County Environmental Health Division regarding xylene wastes being accepted by KRI (see Section P)
16. Weight slip indicating KRI shipped 7,860 pounds of infectious wastes to SES (see Section Q)
17. A list of possible infectious agents handled by hospital (see Section R)
18. Statement and Designation on possible new corporation that will operate KRI (see Section S)

Witnesses:

1. Albert Fujitsubo, R.S.
Associate Hazardous Materials Specialist
Department of Health Services, TSCD
5545 East Shields Avenue
Fresno, California 93727
2. Bruce Butterfield
Associate Hazardous Materials Specialist
Department of Health Services, TSCD
5545 East Shields Avenue
Fresno, California 93727
3. Lloyd Smith
Senior Investigator
Department of Health Services, TSCD
5545 East Shields Avenue
Fresno, California 93727
4. Flora Darling, R. S.
Environmental Health Specialist I
Kern County Health Department
1700 Flower Street
Bakersfield, California 93305
5. Gary Urbanowicz
Vice-President for KRI
1901 Avenue of the Stars, Suite 1774
Los Angeles, California 90067
6. Gary Day
Truck Driver
KRI
2919 Peerless Avenue, Apartment A
Bakersfield, California
7. Aaron Smith
Maintenance
KRI
10505 Paul Avenue
Bakersfield, California
8. Rudy Von Burg, Ph.D.,
Toxicologist
Department of Health Services
4250 Power Inn Road
Sacramento, California 95826

ALLEGED VIOLATIONS

Section 25189.2 of the Health and Safety Code - Except as provided of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

STATEMENT OF FACTS

On September 14, 1987, Albert Fujitsubo received a complaint from Mike Sides, EHS IV Infectious Waste Program Manager from the Kern County Division of Environmental Health requesting an inspection of Keystone Resources, Inc. (see Exhibit K).

On September 16, 1987 Fujitsubo spoke to Steve McCauley of the Kern County Division of Environmental Health. A joint inspection was arranged for September 22, 1987.

On September 22, 1987 an inspection was made at Keystone Resources, Inc. (KRI), 201 Industrial Street in Bakersfield, California. Representatives present were Flora Darling, R.S., Kern County Division of Environmental Health, Bruce Butterfield,

Lloyd Smith and Albert Fujitsubo of the Department of Health Services, Toxic Substances Control Division, Gary Day and Aaron Smith of KRI. The following observations were made:

2. The Department has determined that Respondents, Keystone Resources, Inc. (KRI) Robert D. Reese and Gary Urbanowicz have violated, are violating, or threaten to violate Section 25189.2 of the Health and Safety Code and other specified provisions as follows:

2.1. Respondents violated Section 25202 of the Health and Safety Code and Section 66855(b) of Title 22 of the California Code of Regulations (CCR) relating to wash water disposal, found on Page 19 of the Operational Plan. The Operational Plan requires run off from the cleaning area to be collected by a steel drain tray with a connection to the sanitary sewer. On September 22, 1987 Bruce Butterfield, Lloyd Smith and Albert Fujitsubo representing the Department of Health Services, Toxic Substances Control Division, Northern California Section, Fresno and Flora Darling of the Kern County Environmental Health Department observed two concrete sumps with a dark liquid in them. Aaron Smith of Keystone Resources, Incorporated (KRI) stated the effluent from the equipment washing and sanitizing operation drains in the concrete sumps observed. Aaron Smith went onto say these sumps were not connected to the sewer and to his knowledge has never been pumped. (See photographs in Exhibit H, #23, #24, 25).

2.2. Respondents violated Section 25202 of the Health and Safety Code in that it violated the facility permit in regard to prohibited wastes requirements, found on page 9 of the permit. On September 25, 1987 Andrew John Wheeler of the California Coagulation Laboratory in Bakersfield stated in an affidavit to Flora Darling that KRI had accepted infectious and cytotoxic waste from his facility. (see affidavit in exhibit I). On September 25, 1987 Flora Darling procured a contract indicating KRI accepts chemotherapy waste from Kern Oncology Medical Clinic in Bakersfield. (see exhibit J)

2.3. The Respondent violated Section 66541 of Title 22, California Code of Regulations. This section requires manifesting transportation of hazardous wastes. Xylenes are listed as a potentially hazardous material in Article 9 of Title 22, California Code of Regulations. On November 18, 1987 Gary Urbanowicz, KRI stated xylenes wastes were picked from Physicians Automated Laboratory in Bakersfield. Urbanowicz stated the xylenes waste was not manifested. Urbanowicz went on to say this was a one time occurrence and the waste was brought back to Physicians Automated Laboratory.

2.4. Respondents violated Section 25202 of the Health and Safety Code and Section 66855(c) of Title 22, California Code of Regulations in that it violated a requirement in the facility operation plan in regard to overtime wastes found on page 23 of the operation plan. The operation plan specifies if KRI cannot process the wastes within the allowed time, 96 hours, the wastes will be disposed of at a County landfill, Kern County no longer allows infectious wastes to be disposed of untreated into any County landfills. On September 22, 1987 Gary Day of KRI stated in an affidavit to Lloyd Smith if the incinerator has broken down the infectious wastes are transported to Security Environmental Systems (SES) or Thermal Combustion Innovators (TCI). SES and TCI are permitted sites treating infectious waste by incineration, in the Los Angeles area. This procedure is not incorporated into the Permit or Operational Plan. (See Exhibit M for the affidavit of Gary Day). On September 22, 1987 Lloyd Smith copied a weight slip from Vicky Vernon's Truck Scales. This weight slip indicated KRI transported 7860 lbs of infectious wastes to SES. (See Exhibit Q).

2.5. Respondents violated Section 25202 of the Health and Safety Code in that it did not comply with requirements on page 13 of the permit relating to incineration operating conditions. KRI is required to incinerate infectious wastes to complete combustion to carbonized or mineralized ash. On September 22, 1987 Lloyd Smith, Bruce Butterfield, Albert Fujitsubo and Flora

Darling observed unburned plastic and card board amount the incinerator ash. A. Smith stated to Fujitsubo the ash observed was ready to be disposed of at a county landfill.

2.6. Respondents violated (Section 67103(a) of Title 22, California Code of Regulations (CCR),) which corresponds with violation Plant Security requirements on page 17 of the Operation Plan. KRI is required to keep the second fence gate locked except when trucks are entering or leaving. On September 22, 1987, Lloyd Smith, Bruce Butterfield, Albert Fujitsubo and Flora Darling observed the second fence gate open about 1 1/2 hours before a truck arrived.

2.7. Respondents violated Section 25202 of the Health and Safety Code and Section 66855(b) of Title 22, California Code of Regulations in that it violated storage requirements on page 17 of the Operational Plan. The Operational Plan requires each waste group in the storage room to have an identification tag marked with a date of arrival at the facility and the withdrawal date for incineration. On September 22, 1987 Bruce Butterfield, Lloyd Smith, Albert Fujitsubo and Flora Darling observed no arrival or withdrawal dates on the infectious wastes in the storage room.

2.8. Respondents violated Section 25202 of the Health and Safety Code in that structural requirements for the storage area found on page 16 of the Operational Plan were not complied with. The storage area is to be surrounded by a 6" berm with a 6' high rodent proof fence with a lockable security gate. On September 22, 1987 Lloyd Smith, Bruce Butterfield, Albert Fujitsubo and Flora Darling observed no 6" berm with a 6' high rodent proof fence with a lockable security gate surrounding the storage/area.

2.9. Respondents violated Section 67104(a) of Title 22, California Code of Regulations which corresponds with provisions on page 9 of the Operational Plan related to periodic self inspections. The operational plan requires daily and weekly inspections. On September 22, 1987 Bruce Butterfield reviewed the inspection records. Butterfield noted inspections were not recorded daily and the monitoring equipment, the controls, and the alarms on the furnace were not inspected and recorded weekly.

2.10. Respondents violated Section 67105(a)(1) of Title 22, California Code of Regulations which corresponds with provisions on page 3 of the Operational Plan related to training. The Operational Plan requires 20 hours of training with annual reviews. On September 22, 1987 Gary Day of KRI stated to Lloyd Smith he received approximately 45 minutes to 1 hour of training in how to handle infectious wastes. (See Exhibit M for affidavit.

2.11. Respondents violated Section 67123(b) of Title 22, California Code of Regulations. This section requires if only one employee is on the premises he shall have access to a communication device. On September 22, 1987 A. Smith stated to Fujitsubo sometimes only one employee is working and that person may operate the incinerator. Fjujitsubo observed no communication device at the incinerator unit.

2.12 Respondents violated Section 25202 of the Health and Safety Code and Section 66840(k) of Title 22, California Code of Regulations in that it violated requirement on page OP-0313 of the Operational Plan regarding disinfection of the equipment. On September 22, 1987, Lloyd Smith, Bruce Butterfield, Albert Fujitsubo and Flora Darling observed the steam cleaner used for disinfecting equipment. It was not operational at that time. The steam cleaner had no visible monitoring to insure 180° is maintained when operated. Aaron Smith stated to Fujitsubo a chlorine solution is used when the steam cleaner is not operational. Fujitsubo asked Aaron Smith how he knew the solution was at least 2,000 ppm hypochlorite. Aaron Smith stated to Fujitsubo he knew of no testing method for concentrations of hypochlorite.

2.13 Respondents violated Section 25202 of the Health and Safety Code and Section 66855(b) of Title 22, California Code of

Regulations regarding the Operational Plan requirements on Page 7 related to incinerator ash handling. The Operational Plan requires KRI to cover all containers of incinerator ash. On September 22, 1987, Lloyd Smith, Bakersfield, Albert Fujitsubo and Flora Darling observed containers of incinerator ash uncovered (see Exhibit H, photographs 18, 19, 20, and 21).

2.14 Respondents violated Section 25202 of the Health and Safety Code relating to permit requirements on page 10 corresponding to infectious sharps. The permit requires infectious sharps to be contained in leak proof, rigid puncture resistant containers which are taped closed or tightly lidded. On September 22, 1987, Lloyd Smith, Bruce Butterfield, Albert Fujitsubo and Flora Darling observed a cardboard container that Aaron Smith stated contained infectious sharps. This container was not taped closed or lidded. (See Exhibit H, photograph #1)

2.15 Respondents violated Section 25201 of the Health and Safety Code. This Section required a permit from the Department for storage of hazardous wastes over 90 days. KRI does not have a permit to store hazardous waste for 90 days, as defined in Section 25123.3(a)(1) of the Health and Safety Code. On September 22, 1987, Bruce Butterfield, Lloyd Smith, Albert Fujitsubo and Flora Darling observed several 55-gallon barrels on the site. Aaron Smith stated to Fujitsubo lead and copper wastes were produced by the former business and the barrels observed

were left over from that former business. KRI also owned the previous business. KRI has been in operation since March 22, 1986, today's date is September 22, 1987. This would exceed the 90-day storage limit for hazardous waste storage without a permit. KRI does not have a permit specifying hazardous wastes an be stored for in excess of 90 days.

2.16 Respondents violated Section 66855(b)(4) of Title 22, California Code of Regulations. This Section requires if infectious wastes are treated or disposed of by a method other than landfill burial, a method of operation that ensures the wastes will be rendered noninfectious within four days of receipt of the facility. On September 30, 1987, Gary Urbanowicz of KRI stated to Lloyd Smith infectious wastes have been held up to 96 hours and shipped to other facilities for treatment, without having first been rendered non-infectious.

2.17 Respondents violated Section 66840(e) of Title 22, California Code of Regulations. This Section requires enclosures for the containment of infectious waste to be so secure as to deny access to unauthorized persons. On September 22, 1987 Bruce Butterfield, Lloyd Smith, Albert Fujitsubo and Flora Darling observed the front entrance gates to be open, the storage room unlocked when inspected and the rear door unlocked to vehicle, California license number 2M99082 as it arrived carrying infectious wastes.

2.18 Respondents violated Section 67103(b) of title 22, California Code of Regulations which corresponds with facility permit requirements on page 18 relating to security. The permit requires a fence in good condition surrounding the facility and a 24-hour surveillance system. Bruce Butterfield observed on September 22, 1987 the front gate could be lifted off the runner and the gate opened while locked. Fujitsubo on September 22, 1987 observed no 24-hour surveillance system at the facility.

On September 23, 1987, Bruce Butterfield received a phone call from Gary Urbanowicz. Bruce Butterfield reviewed the major violations noted on September 22, 1987 as follows:

1. Storage for over 96 hours without refrigeration
2. Incomplete burning of wastes
3. Discharge of rinse liquids on to the ground and pits
4. Security not sufficient

Urbanowicz stated to Butterfield he knew KRI had problems at the site.

On September 23, 1987, Fujitsubo phoned Flora Darling and requested that Darling obtain affidavits from facilities transferring their wastes to KRI.

September 30, 1987, Lloyd Smith, Bruce Butterfield and Ken Davis of DOHS interviewed Gary Urbanowicz regarding the September 22,

1987 inspection. Urbanowicz stated initially a lot of good plans were made, but were not followed through with. Items discussed included:

1. Urbanowicz acknowledged the building is not optimum for this operation because the doors leading into the building are open and excess in size.
2. Urbanowicz acknowledged the facility has not been properly managed since the management retired in 1986.
3. Urbanowicz stated the bags from the hospitals and oncology clients are not checked for chemotherapy liquids.
4. The waste water from the washing/sanitizing operation is supposed to go to the sewer. Urbanowicz stated after the planning stages, apparently everyone got lazy.
5. Training had not been completed as stated in the Operational Plan. (See Exhibit O)

On November 18, 1987, Bruce Butterfield, Fred Fontus, and Albert Fujitsubo of DOHS interviewed Gary Urbanowicz and Bob Pippenger of KRI regarding violations noted on September 22, 1987. The discussion on the violations were as follows:

Violation 2.1 - Urbanowicz stated the washing and sanitizing site had been moved to an area that had a drain to the sewer. Bruce Butterfield asked if the City Sewer District was contacted for approval. Urbanowicz stated they have not. Fujitsubo told Urbanowicz that the contents of the concrete sumps that received wash/sanitizing effluent would have to be tested and the extent of any contamination evaluated.

Violation 2.2. - Urbanowicz stated he obtained verbal approval from DOHS to accept fomites with trace contaminants of antineoplastic fluids.

Violation 2.3 - Urbanowicz stated KRI did accept xylene wastes on a onetime basis. The waste was returned to the generator as soon as Urbanowicz was aware of the mistake.

Violation 2.4 - Urbanowicz stated wastes have been brought to SES and TCI.

Violation 2.5 - Urbanowicz stated he believed the wastes had not been given enough contact time so incomplete combustion had taken place previously. Urbanowicz stated most of the wastes are transported to SES or TCI and no longer incinerated.

Violation 2.6 - The secondary gate was locked upon arrival at the site.

Violation 2.7 - Urbanowicz produced stickers to identify dates of arrival and withdrawal for wastes. No wastes were observed in the storage room.

Violation 2.8 - Urbanowicz stated he believed the storage facility had been approved.

Violation 2.9 - Urbanowicz stated he had not complied with the daily and weekly inspection requirements, but will endeavor to do so in the future.

Violation 2.10 - Urbanowicz stated the employees have not received the training as required in the Operational Plan.

Violation 2.11 - Urbanowicz agreed there are no communication devices at the incinerator.

Violation 2.12 - Urbanowicz stated the steam cleaner is pre-set to operate above 180^o F. Fujitsubo asked if it has been checked and calibrated. Urbanowicz stated it had not been. Fujitsubo asked Urbanowicz how he knew 2,000 ppm of hypochlorite is being used for sanitizing, when the steam cleaner is inoperable.

Urbanowicz replied there isn't a way to monitor the level, the solution is mixed to label directions. Fujitsubo recommended buying test papers to monitor the solution concentration.

Violation 2.13 - Urbanowicz agreed the incinerator ash in containers had not been covered in the past but will be in the future. The ash in containers were not covered during the inspection.

Violation 2.14 - Urbanowicz stated all infectious sharps will be contained properly in the future.

Violation 2.15 - Urbanowicz stated the wastes in the 55-gallon barrels had been tested at hazardous waste levels. These wastes are to be disposed at Chemical Waste Management site in Kettleman according to Urbanowicz. Fujitsubo stated to provide a manifest documenting this transaction.

Violation 2.16 - Urbanowicz stated all wastes will be treated or disposed in 96 hours of receipt at the facility.

Violation 2.17 - The storage room and vehicle doors were locked during the inspection.

Violation 2.18 - The gate runner has been repaired and a 24-hour surveillance system has been installed. Urbanowicz stated he may move the business to 320 Sumner Street in Bakersfield under the name of Continental CareTech Corporation.

a:afcao.127